

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE
TRIBUNAL, KOLKATA
EASTERN ZONAL BENCH : KOLKATA**

REGIONAL BENCH - COURT NO.2

Excise Appeal No.78379 of 2018

(Arising out of Order-in-Appeal No.76/KOL-V/2018 dated 15.05.2018 passed by Commissioner of CGST & CX, (Appeal-I), Kolkata.)

M/s. ARC Insulation and Insulators Private Limited

(Vill-Ramdevpur, P.O.:Bowali, P.S.:Bishnupur,
Dist.24 Parganas (S), Pin-743384.)

...Appellant

VERSUS

Commissioner of CGST & CX, Kolkata North Commissionerate

.....Respondent

(180, Shantipally, Rajdanga Main Road, Kolkata-700107.)

APPEARANCE

NONE for the Appellant (s)

Shri A.Roy, Authorized Representative for the Respondent (s)

CORAM: HON'BLE SHRI P.K.CHOUDHARY, MEMBER(JUDICIAL)

FINAL ORDER NO. 76892/2019

DATE OF HEARING : 12 December 2019

DATE OF DECISION : 12 December 2019

P.K.CHOUDHARY :

When the matter was called, none appears on behalf of the appellant. The learned Authorized Representative appearing on behalf of the respondent Revenue submits that the learned Commissioner(Appeals) had not decided the appeal before him on merits, but had dismissed the same as not maintainable on the grounds of limitation.

2. I find that the Order-in-Original dated 31.07.2015 was received by the appellant on 27.08.2015 and they were required to file the appeal before the lower appellate authority on or before 26.10.2015.

However, the appeal was filed only on 29.10.2015 i.e. after a delay of 3(three) days.

3. I find that the appeal filed beyond the statutory period of 60(sixty) days, but within the condonable period of 30(thirty) days. The learned Commissioner(Appeals) has not condoned the delay and has dismissed the appeal before him. I condone the delay in filing the appeal before the lower appellate authority and remand the matter to the learned Commissioner(Appeals) to decide the appeal on merits without visiting the aspect of limitation.

The appeal is allowed by way of remand to the Commissioner(Appeals).

(Dictated and pronounced in the open Court.)

SD/
(P.K.CHOUDHARY)
MEMBER (JUDICIAL)

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